

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SUSAN J. SANFILLIPO, Individually
and as Parent and Natural Guardian of
Andi Fraczak,

Plaintiffs,

02-CV-6517T

v.

**DECISION
and ORDER**

TOWN OF GREECE, GREECE POLICE DEPARTMENT,
MONROE COUNTY, NEW YORK, MAY DEPARTMENT
STORE COMPANY, PITTSBURGH, PENNSYLVANIA,
POLICE OFFICERS, VITO J. VINCELLI and
EDWARD VAN DAME, JOHN DOE, AND
DOE SECURITY COMPANY,

Defendants.

Plaintiff Susan SanFillipo, ("SanFillipo")¹ brings this action on behalf of herself and her infant daughter Andi Fraczak, ("Andi") against the defendants claiming, inter alia that her civil rights were violated in connection with her detention and subsequent arrest outside a Kaufmann's Department Store in the Town of Greece, New York. Plaintiff also brings a claim on behalf of her daughter Andi, who was 10 years old at the time of the incidents at issue, and whom SanFillipo claims was negligently or recklessly forced to watch her mother being detained, "pummeled," tripped, and falsely arrested. Plaintiff further alleges that the defendants

¹ According to the Caption and body of the Complaint, plaintiff's surname is spelled "SanFillipo", with two "l's" and a capital "F". In plaintiff's response to defendants' motion for summary judgment, her name is spelled "Sanfilipo", with one "l" and a lower-case "f". The Court will use the spelling used in the caption and body of the Complaint.

negligently or recklessly left Andi alone at the scene of the incident with another infant child and without adult supervision when they transported SanFillipo and Andi's adult sister to a police station in Greece, New York.

Plaintiff's Complaint contains seven causes of action. The first six causes of action were brought on behalf of the plaintiff in her individual capacity, and the seventh cause of action was brought solely on behalf of Andi. Counts One, Two, Five, and Six of the Complaint allege that SanFillipo's federal rights were violated by the defendants. Counts Three and Four allege that SanFillipo's rights under New York law were violated. Count Seven of the Complaint alleges that Andi's rights under New York law were violated.

By Stipulation and Order dated January 26, 2006, SanFillipo withdrew all of her claims against all of the defendants, on the merits, and with prejudice. (Docket item no. 39). Accordingly, all federal claims in this action have been dismissed with prejudice.

Pursuant to 28 U.S.C. 1367(c)(3), where a district court has dismissed all claims over which it has original jurisdiction, the court may decline to exercise jurisdiction over state law claims. Because the federal claims of plaintiff's Complaint have been dismissed with prejudice, I decline to exercise jurisdiction over plaintiff's remaining common law cause of action. See United Mine Workers v. Gibbs, 383 U.S. 715, 726 (1966) (authorizing district

court to dismiss state and common law claims for lack of jurisdiction when all federal claims have been dismissed). Accordingly, I dismiss plaintiff's remaining cause of action on behalf of her daughter, and in so doing, dismiss the Complaint.

ALL OF THE ABOVE IS SO ORDERED.

S/ Michael A. Telesca

Michael A. Telesca
United States District Judge

DATED: Rochester, New York
October 18, 2006